



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY PIEDMONT REGIONAL OFFICE

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Secretary of Natural Resources

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David K. Paylor
Director

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Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION SPECIAL ORDER BY CONSENT ISSUED TO ENNIS PAINT, INC. VPDES Permit No. VAR051550

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §10.1-1185 and 62.1-44.15(8a) and (8d), between the State Water Control Board and Ennis Paint, Inc., for the purpose of resolving certain violations of environmental law and/or regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizen's board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Special Order.
6. "Ennis" means Ennis Paint, Inc., a corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

7. "Facility" means the Ennis paint manufacturing plant located at 4400 Vawter Ave. in Richmond, Virginia.
8. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. "VPDES Permit" means Virginia Pollutant Discharge Elimination System Industrial Storm Water General Permit, issued by DEQ on July 1, 2004 and which expires on June 30, 2009. Ennis is registered for coverage under the VPDES Permit as evidenced by registration No. VAR051550.
10. "VPDES Permit Regulation" means the General Virginia Pollutant Discharge Elimination System Permit for Discharges of Storm Water Associated with Industrial Activity Regulation, 9 VAC 25-151-10 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

1. Ennis owns and operates a paint manufacturing plant located at 4400 Vawter Ave. in Richmond, Virginia ("Facility"). Ennis is registered for coverage under the VPDES Permit for the discharge of industrial stormwater from the Facility.
2. On June 29, 2007, DEQ Piedmont Regional Office staff received a complaint about a contaminated stormwater discharge at Ennis. On July 10, 2007, DEQ Piedmont Regional Office staff conducted a compliance inspection of the Facility. The following violations were noted as a result:
 - a. Water contaminated with paint product was observed discharging from a concrete pad to state waters. The discharge is not authorized by the VPDES Permit, and therefore contravenes Va. Code §62.1-44.5, 9 VAC 25-31-50.A, 9 VAC 25-151-70.Part I.B.1, 9 VAC 25-151-70.Part II.F, and 9 VAC 25-151-70.Part II.L of the VPDES Permit Regulation.
 - b. Wastewater from the containment area of the tank farm was being pumped through a pipe into a field and discharged to state waters. The discharge is not authorized by the current VPDES Permit, as required by, Va. Code §62.1-44.5, 9 VAC 25-31-50.A, 9 VAC 25-151-70.Part I.B.1, 9 VAC 25-151-70.Part II.F, and 9 VAC 25-151-70.Part II.L of the VPDES Permit Regulation.
 - c. Ennis failed to maintain the reports of visual examination of stormwater discharges on-site, as required by 9 VAC 25-151-70.Part I.A.1.a.(3) of the VPDES Permit Regulation.
 - d. Ennis failed to maintain discharge monitoring reports on-site as required by 9 VAC 25-151-70.Part I.A.1.b (3) of the VPDES Permit Regulation.

3. On September 27, 2007, DEQ issued Notice of Violation ("NOV") Number 2007-09-PRO-201 regarding the above-described violations.
4. On October 4, 2007, DEQ received a letter in response to the NOV from Ennis. The following information was included in the letter to address the violations:
 - a. The discharges were discontinued as soon as Ennis became aware of these observations during the inspection.
 - b. As soon as Ennis became aware of the record keeping requirements a DMR was completed.
 - c. A senior employee team was trained on the record keeping and reporting requirements.
 - d. Periodic audits will be conducted by Ennis to ensure that all requirements are being met.

SECTION D: Agreement and Order

1. Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d) orders Ennis, and Ennis voluntarily agrees, to perform the actions described in Appendix A of this Order. In addition, the Board orders Ennis, and Ennis voluntarily agrees, to pay a civil charge of **\$16,197** within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Payment shall include the Federal Tax Identification Number for Ennis.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Ennis, for good cause shown by Ennis, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves the violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Ennis by DEQ on September 27, 2007. ~~This Order shall not preclude the~~ Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent

remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.

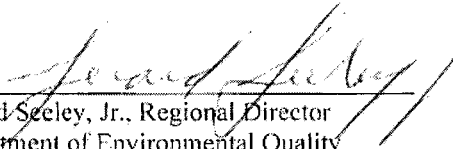
3. For purposes of this Order and subsequent actions with respect to this Order, Ennis admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Ennis consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Ennis declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law, and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Ennis to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Ennis shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Ennis shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Ennis shall notify the PRO Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

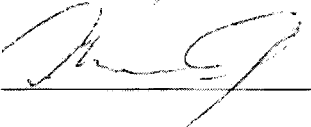
Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Ennis. Notwithstanding the foregoing, Ennis agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Ennis. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Ennis from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard or requirement otherwise applicable.
12. By its signature below, Ennis voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of October 23, 2008.


Gerard Seeley, Jr., Regional Director
Department of Environmental Quality

Ennis Paint, Inc. voluntarily agrees to the issuance of this Order.


By: 17 August 2008
Date: 

Commonwealth/State of _____

City/County of _____

The foregoing document was signed and acknowledged before me this 19th day of August, 2008, by Wesley Allen Cox, who is

Ennis J. H. Mc of Ennis Paint, Inc., on behalf of the Corporation.



Notary Public

My commission expires: July 31 2009

APPENDIX A

1. Ennis shall submit to DEQ for review and approval a corrective action plan (CAP) for the unpermitted discharges that shall include, and not be limited to: (a) an impact analysis; (b) proposed corrective actions; and (c) an implementation schedule. The CAP shall be submitted within 30 days of the effective date of this Order. The DEQ-approved corrective action plan shall be implemented by Ennis in accordance with the approved schedule.